G. R. S. 58]

*Previous references.*

File No. 121-15

1915.
( G.F. )

Serial Nos. 1 and 2

*Later references.*

G.F. 121-15 8/ 3 Rev. B. June 1916

P 11 E

# GENERAL AND REVENUE SECRETARIAT.

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*Serial Nos.* 1 and 2

Part B for March 1916.

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SUBJECT.

Exemption from the production of Succession certificate by the heirs and representatives of the deceased depositors in the Bowringapett-Kolar Roy Debenture loan-

Cl 1. Proposal

State that representations have been received in various quarters by the heirs and representatives of the deceased depositors in the Bowringapett-Kolar Roy Debenture loan in regard to the difficulty of producing the needful succession certificates in order to obtain from the Treasury Debenture bonds issued in favour of the deceased and recommends grant of exemption only in cases where the amount involved is below 500 Rs.

Cl 2. Order:- Declining to sanction the proposal

M.D. 1551—GPP—20,000—13-12-15

G.R.S. 11] 1915.

GENERAL AND REVENUE SECRETARIAT.

( G-P- )

NOTES.

File No. 121 9 15

FILE HEADING.

Re Exemption from production of Succession Certificates by the heirs & representatives of the deceased depositors in the Bowringpet-Kolar Ry Debenture loan.

From

The Deputy Commr, Kolar D.

No. 257 Dated 23.12.15 Received 26.12.15

| Diary No. | Enclos. | Spare Copies. | Serial No. |
|---|---|---|---|
| 1181 | | | 1 |

BRIEF ABSTRACT OF LETTER.

Stating that representations have been received from various quarters by the heirs & representatives of the deceased depositors in the Bowringpet-Kolar Ry Debenture loan in regard to the difficulty of producing the necessary Succession Certificates in order to obtain from the Treasury Debenture bond issued in favour of the deceased and recommending that Exemption may in cases where the amount involved is not more than Rs 500/- & where the Dy Commr in his discretion thinks that the circumstances of the case, warrants such exemption.

NOTES AND ORDERS.

The letter speaks for itself and needs no orders.

The recommendation cannot be accepted.

Rs
23/1/16

NOTES—First Sheet.

GPB—35,000—15-6-12

Serial No.

be accepted as it may land Govt in difficulties and make Govt personally liable for payments made to wrong parties.

Resn)

le
3.1.16

942

M
5/1
le

18? members)

The Govt Advr may be consulted.

17/1/16

K L.O. 1315 ff 1-5

Forwarded to the Govt Advocate for favour of opinion

B.O
S. Shanmugam
18.1.16

L.O. 25 ff 5-10

As the preamble to the Succ. Cert. Reg. shows the object of the act is to facilitate on the one hand the collection of debts and on the other to afford protection to parties paying debts to the representatives of the deceased persons. In other words "the objects of the act are to enable the debtors to get sufficient acquittances when they pay money due to the Estate of the deceased and to preserve that Estate from loss

NOTE—Contn. sheet.

GPB—20,000—30-6-15

Serial No.

by giving some one the right to collect the debt lest they should be lost." The holder of the certificate is in the eye of law a trustee liable to account for the monies received by him to the legal heirs or representatives of the deceased. In law there is nothing at present to preclude debtors from paying the debt to the person claiming to be the heir of the deceased creditor but the payer does so at his risk, for such payment will not bind the real heir.

Mr Bowring's proposal involves:—

Exemption at the discretion of the D.C. from production of the certificate under the Regulation in non-Contested Cases where the value of the Debenture bonds is less than 500 Rs,

with the Consequential Exemption in such cases of payment of the requisite Stamp duty to Govt. Duty being payable only in Cases where Certificates are granted under the Regulation, it follows ipso facto

NOTE—Contn. sheet.

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Serial No.

that where the production of a Certificate is dispensed with there is the Consequential non-liability to pay the duty.

The important question therefore is whether in the few cases of the kind mentioned by Mr Bowring the production or Memorial of the Certificate may be left to the discretion of the D C. The proposal will not, in my opinion, result in any appreciable saving of time or trouble, because the Munsiff of Kolar is empowered to grant certificates under the Regulation up to Rs 2500-0-0 and in uncontested cases, his enquiry, which will be of a formal nature, is not likely to occupy more time than the proposed enquiry by the D C. But there is the distinct advantage of a statutory acquittance when payment is made under a Certificate issued by the Munsiff. The proposal to exempt payment of duty on Debentures of the value of less than Rs 500/- is not

NOTE—Contn. sheet.

GPB—25,000—30-4-15.

Serial No.

Made independently of the Dist proposal & it is therefore unnecessary to consider that question:

On the whole I am of opinion that in cases where Govt or a local authority like the D. Board is concerned it is safer both on principle & expediency to insist upon the production of a certificate under the Regulation —

5.2.16. Standing Counsel

1st Member) 8.2.16

I am disposed to agree with the Govt Advocate. A reply to that effect may be sent.

20/2/16

Draft submitted for approval

U

Put up revised draft — 29/2

21/26/2.

Revised draft submitted.

U. 29/2

Resent. 1.3.16

NOTE—Contn. sheet.

GPB—20,000—30-6-15

1581

(G.R. S. 12]

General and Revenue Secretariat.

G.F File No. 121 of 1915.

Serial No. 2

To

The Deputy Commissioner
Kolar District.

Fl 6805 dt 20.3.16

With reference to sl 1, declines to sanction his proposal, under the circumstances represented by Govt—

NOTE—Contn. sheet.

GPB -70,000—17-12-15

GPB—50,000—17-9-15

From The Deputy Commissioner 19
Kolar District

To The Secretary to the
Govt of Mysore

Dated 23.12.15
Despatched
Received Bangalore

General No. 2507
No. 1

Enclosure No.

DIARY No. 1181

1915-1916
SECTION L-7
SUBJECT 121-15
SERIAL No. 1

Stating that in the
Case of deceased depositor
in the Bowringpet Kolar
Railway Debenture
loan, the production
of Certificate of Decease
Should May be dispensed
with in the discretion
of Deputy Commissioner
in Cases where the value
of the debenture bond
is below Rs 500/-.

257

Deputy Commissioner's office,
Kolar District,
Dated Kolar, the 23rd December 1915.

From

P. F. B O W R I N G, Esquire, J.P.,
Deputy Commissioner, Kolar District.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
General Department, Bangalore.

Sir,

I have the honor to state that representations have been made to me in various quarters by the heirs and other interested persons of the deceased depositors in the Bowringpet-Kolar Railway Debenture Loan, in regard to the difficulty in obtaining from the Treasury the - Debenture bonds issued in favour of the deceased and drawing the ----- interest amounts due on the said bonds. There are instances in which the depositors having died before the bonds were delivered to them, the bonds are still in the Treasury subject to the production by their heirs of the needful certificate under the Succession Certificate Regulation, 1901. It is the insisting on the obtaining and production of this heirship certificate that is much complained of, as in every such case, the party has necessarily to incur an expense in the way of fees etc, which, considering the value of the debt or security in respect of which the certificate is applied for comes to no inconsiderable figure. This, it is urged, presses very heavily on persons of small means. They accordingly ask that the production of the heirship certificate might be dispensed with in cases of this kind and the claims of the persons who in the opinion of the Deputy Commissioner, after thorough local enquiry,

appears to be the rightful heir to the deceased, recognized for the purpose.

2. While admitting the force of the above representation, I must say that it is not desirable to --- entirely relax the rule on the subject, though it may cause the parties some hardship and inconvenience. But in cases where disputes are not likely to arise and intricate questions of law are not involved and further when all the members of the deceased's family are agreeable to the nomination of the heir by the Deputy Commissioner after a full local enquiry, I think the production of the required certificate of heirship may be dispensed with in the discretion of the Deputy Commissioner only in cases when the value of the --- debenture bond is below Rs.500/-.

3. I make this recommendation, because a large number of depositors who have invested small sums of money in the debentures are poor and the expenses of having to obtain the certificate under the rules would press heavily on the members of their families.

4. I submit the question for favourable consideration and orders of Government, as I believe some relief seems called for in the matter.

I have the honor to be,

Sir,

Your most obedient servant,

Deputy Commissioner,
Kolar District.

G. R. S. 26]

File No. 121-15

Serial No. 2

17/3

*Diary No. of letter replied to* 1681

Revised draft

No. H 4805

General and Revenue Secretariat

( )

*, the* *191* .

To

dated 20th March/16

The Deputy Commissioner

Kolar Dt.

Date of issue 20-3-16

Signed by W. P. Kennedy

Sir,

With reference to your letter No. 257 dated 23rd Dec. 1915 suggesting that under certain conditions you may be empowered to dispense with the production of heirship certificates when Bangalore-Kolar Railway Debenture bonds are to be issued or interest on them paid to the heirs of deceased persons, as the production of succession certificates puts the parties concerned to some trouble and expense, I am directed

over.

to

SUBJECT.

08/3

to state as follows:—

The Succession Certificate is intended to provide sufficient acquittance for payments made by debtors to the representatives of deceased persons. If payment is made in any instance to a person not producing such a Certificate, there is always the danger that the payment may not have been made to the proper person and that the debtor may be obliged to pay the amount over again. As there should not be even the possibility of such danger when payments are made on behalf of the Govt or the District Funds, Govt consider that it is safer both on principle and expediency to insist on the production of a Certificate in all cases. As the Munsiffs of Kolar can grant Certificates up to Rs. 2500 and in uncontested Cases his enquiries will be of a formal character and not likely to occupy much time, the trouble and time involved in getting Certificates in uncontested cases of less than Rs 500/- will be inappreciable. Under these circumstances Govt are unable to sanction your proposal

I have &c.

W/16/13

R. H. Secretary

Revised draft
W 29/2.

W 1/3

*List of enclosures,*

*Copied by*

*Examined by*

GPB—25,000—4-3-13